

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARCIE FISHER-BORNE, for
herself and as guardian ad
litem for M.F.-B., a minor,
et al.,

Plaintiffs,

v.

JOHN W. SMITH, in his official
capacity as the Director of the
North Carolina Administrative
Office of the Courts, et al.,

Defendants.

1:12CV589

ELLEN W. GERBER, et al.,

Plaintiffs,

v.

ROY COOPER, et al.,

Defendants.

1:14CV299

ORDER

On July 30, 2014, this court entered an order requiring the parties in each of these two cases to submit supplemental briefs addressing the opinion of the Fourth Circuit Court of Appeals in Bostic v. Schaefer, Nos. 14-1167, 14-1169, 14-1173, ____ F.3d ____, 2014 WL 3702493 (4th Cir. July 28, 2014). The parties

have filed those briefs. All parties suggest that Bostic would control at least some of the issues in each of these two cases.

On August 20, 2014, the Supreme Court issued an order which stayed the mandate of the United States Court of Appeals for the Fourth Circuit in McQuigg v. Bostic, No. 14A196, ____ S. Ct. ____, 2014 WL 4096232 (Mem) (Aug. 20, 2014) (Fourth Circuit Case No. 14-1167). The stay remains pending through disposition of a petition for a writ of certiorari. If the petition for a writ of certiorari is granted, the stay shall terminate upon the sending down of the judgment of the Supreme Court. If the writ is denied, the stay terminates automatically at that time. Id.

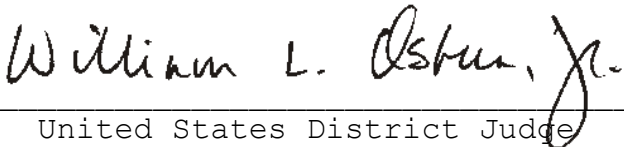
Pending before this court in each of these two cases is a Recommendation from the Magistrate Judge recommending that the matters be stayed pending the Fourth Circuit's decision in Bostic v. Schaefer, No. 14-1167. (No. 1:12CV589, Doc. 97; No. 1:14CV299, Doc. 49.) Plaintiffs objected to the Recommendations in each of these cases. (No. 1:12CV589, Doc. 99; No. 1:14CV299, Doc. 52.)

This court has conducted a de novo review of the matters to which objections were made and finds that the Recommendations should be adopted and these matters stayed. In light of the Supreme Court's stay of the Fourth Circuit's mandate, this court

modifies the Recommendations to stay these matters pending termination of the stay granted in McQuigg v. Bostic, No. 14A196 (Fourth Circuit Case No. 14-1167). The parties are directed to notify this court within twenty (20) days of the denial of the petition for a writ of certiorari or the sending down of the judgment of the Supreme Court.

IT IS SO ORDERED.

This the 27th day of August, 2014.


United States District Judge